

## **REMARKS/ARGUMENTS**

The Applicant would like to acknowledge, with thanks, the Office Action that was mailed on July 12, 2006. This Amendment is responsive to the July 12, 2006 Office Action. Accordingly, claims 1-25 have been canceled without prejudice or disclaimer and new claims 26-43 have been added. The subject matter of claims 26-43 is not new matter as it is described in Figure 5 and page 14, line 5 – page 16 line 5 of the original specification.

### **Claim Rejections**

Claims 1-25 are rejected on the ground of nonstatutory double patenting over claims 1-12 of U.S. Patent No. 6,661,999. Withdrawal of this rejection is requested for the following reasons. Claims 1-25 have been canceled without prejudice or disclaimer rendering this rejection moot.

Claims 26-43 have been added and are patentably distinct from U.S. Patent No. 6,661,999. A nonstatutory obviousness type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application is not patentably distinct from the reference. Claims 26-43 of the present application recite that the first amplifier amplifies a signal at a first frequency, the amplified signal is converted to a second frequency and amplified by a second amplifier. The output of the second amplifier is fed back to the first amplifier to adjust the gain the first amplifier. The claims of U.S. Patent No. 6,661,999 recite that the radio frequency data signal is amplified by a first amplifier and selectively amplified by a second amplifier and do not mention the frequency being converted between the first amplifier and the second amplifier, therefore this subject patentably distinct from the claims of U.S. Patent No. 6,661,999.

Claims 1-4, 6, 7, 14, 15 17 and 18 are rejected under 35 U.S.C. §102 (e) as being anticipated by U.S. Patent No. 6,526,266 to Obara (*hereinafter* Obara). Claims 8, 10-12, 19, 23 and 24 stand rejected under 35 U.S.C. 103(a) as being obvious in view of Obara. Claims 5, 9, 16, and 22 stand rejected under 35 U.S.C. 103(a) as being obvious over Obara in view of U.S. Patent No. 6,272,125 to Nomura (*hereinafter* Nomura). Claims 13, 20, 21, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Obara in view of U.S. Patent No. 6,084,473

to Nauta (*hereinafter* Nauta). Withdrawal of this rejection is requested for reasons that will now be set forth.

Independent claims 26, 34 and 40 recite that a signal at a first frequency is amplified by a first amplifier having a variable gain. The amplified signal is converted to a second frequency and then amplified by a second amplifier at the second frequency. The output of the second amplifier is fed back to the variable gain control of the first amplifier. The first amplifier is operative to adjust its gain based on a selected power setting and the second amplifier is operative to adjust its bias current based on the selected power setting.

By contrast, Obara in Figures 2, 6 and 10 illustrate a system with a having a variable gain means 30 and a power amplifier 27 with a gate bias control means. However, Obara does not convert the frequencies of the signals between the output of the variable gain means 30 and power amplifier 27. Therefore, Obara does not teach or suggest all of the claim elements of new independent claims 26, 34 and 40.

The aforementioned deficiency in Obara is not remedied by any teaching of Nomura. . Nomura is directed to a gain compensating apparatus for use with an amplifying portion of a code division multiple access system. The examiner relies on Nomura to the step of converting the input signal comprise the steps of performing a spread spectrum operation and converting the spread input signal to a radio frequency signal which does not remedy the aforementioned deficiency.

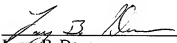
The aforementioned deficiency in Obara and Nomura is not remedied by any teaching of Nauta. is directed to variable gain amplifiers comprised of multiple variable stages. The examiner relies on Nauta for disclosing amplifying a data signal that includes the step of controlling a gain of the amplifier to achieve a constant output transmission power over a temperature range which does not remedy the aforementioned deficiency. The examiner also takes Official Notice that it is well known in the art to use a digital to analog converter for converting gain control from digital to analog which also does not remedy the aforementioned deficiency.

**CONCLUSION**

For the reasons set forth above it is submitted that the claims in their present condition are not anticipated nor obvious in view of the cited prior art and a Notice of Allowance is earnestly solicited. The examiner is invited to contact the undersigned to discuss any matters that may advance the prosecution of this application. If there are any fees necessitated by the foregoing communication, the Commissioner is hereby authorized to charge such fees to our Deposit Account No. 50-0902, referencing our Docket No. 72255/00018.

Respectfully submitted,

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